

POLICY

Residential juvenile justice facilities must have zero tolerance for sexual abuse and harassment of residents and staff. Facilities must ensure that preventive plans are in place and, should allegations regarding sexual abuse or harassment be made, that staff are appropriately trained to take actions to rapidly restore safety, attend to and support the victim, and promptly begin the investigative process.

PURPOSE

To prevent incidents of sexual abuse and sexual harassment to the maximum extent practical and to take prompt, effective and compassionate action in the event that allegations of sexual abuse or harassment are made.

DEFINITIONS

See JRG, JJ Residential Glossary.

PROCEDURE

Each residential juvenile justice facility must develop a written procedure to educate staff, residents, volunteers, and contractors and to respond to incidents of sexual abuse and sexual harassment. The procedure must implement the requirements contained in the February 2011 rules proposed by the US Department of Justice to implement the Prison Rape Elimination Act (PREA) and include the following requirements:

**Prevention
Planning**

Prevention planning procedures at the facility must address the following:

- The agency and facility's zero tolerance for sexual abuse and sexual harassment.
- Training and education efforts that foster staff and resident awareness of what constitutes sexual abuse, sexual harassment, and other sexual incidents that are violations of facility rules.
- Actions that seek to prevent sexual abuse and harassment.

- Supervision practices including determination and review of adequate staffing practices as well as assessment and use of monitoring technology.
- Limits to cross-gender viewing including during routine resident searches and intake/medical examinations.
- Methods and practices to accommodate residents with special needs.
- Hiring and promotion decisions and screening procedures for volunteers and interns.

Responsive Planning

Responsive planning procedures must address the following:

- Use of an evidence protocol and forensic medical examinations in response to allegations of sexual abuse. The protocol and examinations must be focused on meeting the needs of the victim, medical professionals, investigators, and law enforcement.
- Development and maintenance of agreements made with public entities external to the facility and community service providers including those who provide the victim with emotional support services.
- Development and maintenance of agreements made with law enforcement agencies.

Training and Education

Training and education procedures at the facility must address initial and ongoing training and education for the following groups:

- Staff.
- Residents.
- Volunteers.
- Contractors.

Training must be augmented by readily available educational reference materials and information such as pamphlets, posters and signs.

The facility must ensure special training related to sexual abuse and harassment is provided for investigators and medical/mental health staff.

Note: Training may be conducted with appropriate training resources from the Child Welfare Training Institute or other appropriate and authorized sources.

Assessment and Placement

Assessment and placement procedures must:

- Include the use of record reviews, assessments, and interviews of each admitted resident by trained and qualified staff.
- Seek to gather information about prior sexual abuse or harassment as a victim or perpetrator as part of admission and during the early stages of the treatment program.
- Seek to prevent further victimization of previous victims or reoffending by a previous perpetrator.
- Generate information used in decisions related to resident placement, housing, sleeping arrangements, education and work assignments as applicable.

Reporting

Reporting procedures must be clearly explained to residents and staff. Procedures must provide multiple ways for residents to privately report (for example, youth grievance system) the following:

- Sexual abuse and sexual harassment.
- Retaliation by other residents or staff for reporting sexual abuse and harassment.
- Staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or harassment.

Reporting procedures must be readily available to provide residents with access to victim advocates external to the facility who can provide emotional support services related to sexual abuse and harassment.

**Response
Following a
Report**

Reporting procedures must include a method for the facility to receive third-party reports of sexual abuse. Procedures must address the distribution and access to information on how to report sexual abuse on behalf of a resident to the resident's attorney, parent(s), and/or legal guardian.

Procedures for facility response following a report of sexual abuse or harassment must require all staff to immediately report any knowledge, suspicion or information they receive regarding:

- An incident of sexual abuse or harassment that occurred in an institutional setting.
- Retaliation against residents or staff who reported sexual abuse or harassment.
- Any staff neglect or violation of any responsibilities that may have contributed to an incident of sexual abuse, harassment or retaliation.

Procedures must:

- Include provisions for initiating and completing an investigation.
- Include actions for staff to ensure that the alleged victim and perpetrator are separated and any crime scene is sealed and preserved.
- Ensure coordination of actions taken in response to the incident among initial staff responders, medical and mental health practitioners, investigators, law enforcement, and facility leadership.
- Address the protection of all residents and staff who report sexual abuse or sexual harassment, and protection of residents and staff who cooperate with sexual abuse or harassment investigations from retaliation by other residents or staff.
- Include provisions to monitor the conduct and treatment of residents or staff who have reported sexual abuse or cooperated with investigations including any resident

disciplinary reports and housing or program changes for at least 90 days following their report or cooperation.

Investigations

Procedures for facility investigations must:

- Address whether investigations will be conducted by the facility or by a separate investigation office. Where a separate investigation office is used, that office must be identified in the procedure.
- Emphasize promptness, thoroughness and objectivity.
- Address the gathering and preservation of direct and circumstantial evidence, including any available physical and DNA evidence and available electronic monitoring data.
- Require the use of a preponderance-of-evidence standard in determining whether allegations of sexual abuse or harassment are substantiated.

Disciplinary Sanctions

Procedures for disciplinary sanctions must address both staff and residents as follows:

Note: Staff must be subject to disciplinary sanctions up to and including termination for convictions or substantiated sexual abuse or sexual harassment findings. Staff disciplinary matters must be coordinated with the DHS Office of Labor Relations.

Residents must be subject to disciplinary sanctions pursuant to a formal due process disciplinary process following an administrative finding that the resident engaged in youth-on-youth sexual abuse or a criminal finding of guilt for youth-on-youth sexual abuse.

Sanctions for residents must be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.

The disciplinary process must consider whether a resident's mental disabilities or mental illness contributed to the behavior when determining what type of sanction, if any, should be imposed.

If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility must consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

Medical and Mental Health Care

Facility procedures for medical and mental health care must address the following:

- Asking the youth about prior sexual victimization and prior sexual perpetration during the intake or classification process.
- Providing timely, unimpeded access to free emergency medical treatment and crisis intervention services.
- Provisions for ongoing medical and mental health evaluation and treatment for all residents who, during their present stay in residence, have been victimized by sexual abuse or harassment.
- Appropriate follow-up services, treatment plans and referrals.
- A mental health evaluation of all known resident abusers within 60 days of learning of such abuse history and provision of treatment when deemed appropriate by qualified mental health practitioners.
- Pregnancy tests for resident victims of sexually abusive vaginal penetration.
- If pregnancy results, such victims must receive timely information about and access to all pregnancy-related medical services that are lawful in the community.

Data Collection and Review

Data collection and review procedures must include:

- A sexual abuse or harassment incident review at the conclusion of every sexual abuse or harassment investigation. If the allegation is determined to be unfounded, the review is optional.

- Reviews must be conducted by a review team including upper management with input from line supervisors, investigators and medical or mental health practitioners.
- A data review to evaluate if corrective actions in response to incidents are effective in reducing the number/rate of sexual abuse incidents.
- Provisions for secure maintenance and storage of sexual abuse and harassment incident data.
- Provisions for publishing annual Prison Rape Elimination Act (PREA) aggregate data with appropriate DHS approval.

Audits

Facility procedures must include provisions for support of audits for PREA compliance.

AUTHORITY

Prison Rape Elimination Act, 42 USC 15601 et seq.